
MEMORANDUM OF AGREEMENT

BETWEEN

THE STATE OF WYOMING
DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
REGION VIII

INTRODUCTION

The Regional Administrator of Region VIII of the Environmental Protection Agency (hereinafter referred to as the Regional Administrator), and the Director of the State of Wyoming Department of Environmental Quality (hereinafter referred to as the Director), have entered into this Memorandum of Agreement to delineate the responsibilities of Region VIII of the Environmental Protection Agency and the State of Wyoming Department of Environmental Quality, Water Quality Division (hereinafter referred to as the Division), for the ongoing operation of the National Pollutant Discharge Elimination System (hereinafter referred to as NPDES), as described in Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to as the Act), and the Federal regulations promulgated thereunder, published at 40 CFR 124. The Agreement establishes policies and procedures for the transfer of the NPDES Permit Program from Region VIII of the Environmental Protection Agency to the Division; the manner in which the 40 CFR 124 guidelines will be implemented and specified areas of cooperation, standards of performance and guidelines for the achievement of the goals set forth in the Act.

POLICIES

1. It shall be the policy of Region VIII of the Environmental Protection Agency and the Division to fully coordinate and cooperate in the issuance of waste discharge permits under the NPDES.
2. As provided in Section 101(f) of the Act it shall be the Policy of Region VIII of the Environmental Protection Agency and the Division to minimize paperwork and interagency decision procedures, and to make the best use of available manpower and funds, so as to prevent duplication of effort and unnecessary delays.
3. It is recognized that the primary responsibility for the issuance of NPDES permits in the State of Wyoming is with the State; that the Environmental Protection Agency will provide policy guidance, financial, and technical assistance, and aid in the issuance of permits; and that both the State of Wyoming and the Environmental Protection Agency share responsibility for enforcement actions necessary for the protection and enhancement of the State's waters.

4. Based on the approval of State authority pursuant to Section 402, the Director, or his designee, with the assistance of the Permits Branch, Enforcement Division of the Environmental Protection Agency, under existing State statutes and regulations, shall process and issue National Pollutant Discharge Elimination System waste discharge permits which are consistent and compatible with the Act and with regulations and guidelines promulgated thereunder. The Regional Administrator, through the Permits Branch, shall provide written agreement with, objection to, or recommendations on, each NPDES permit to be issued. The Director, or his designee, shall not issue any NPDES permit to which the Regional Administrator has objected. Nor any permit that has not been submitted to the Regional Administrator for review.
5. Region VIII of the Environmental Protection Agency, with technical assistance from the Division, shall have the responsibility for issuance of NPDES permits for point source discharges from Federal facilities to include point sources controlled by Indian tribes or authorized by Indian Tribal Organizations.
6. It shall be the goal of the Division, with assistance from Region VIII of the Environmental Protection Agency, to issue NPDES permits to any remaining significant dischargers in the State of Wyoming by June 30, 1975. The Division and the Permits Branch shall strive to meet the goals set out in this document and progress in achieving these goals will be reviewed by the Director, or his designee, and Region VIII of the Environmental Protection Agency on a monthly basis commencing the end of the first full month after the State assumes the permit program.
7. It is the intention of the State of Wyoming that all permits issued by the Environmental Protection Agency under the NPDES shall serve as Wyoming Pollutant Discharge Elimination System permits until their date of expiration.

AGREEMENTS

1. TRANSMITTAL OF DATA FROM THE ENVIRONMENTAL PROTECTION AGENCY TO THE DIVISION.
 - a. Within 60 days from the date of approval of the State of Wyoming's NPDES permit program, the Regional Administrator, through the Permits Branch, shall transmit to the Division all NPDES and Refuse Act applications and/or other relevant data which the Regional Administrator has in his possession and which he has not already transmitted to the Division. In effecting this transfer, the Regional Administrator will see that copies of all forms and data transmitted are retained by the Environmental Protection Agency.
 - b. The Regional Administrator will, at the time of transmittal, identify any application, pursuant to (a) above, which he considers to be incomplete and will request the Division to secure the missing information. Copies of all information thus secured will be provided to the Regional Administrator, Attention: Permits Branch, upon receipt by the Division.
 - c. Within 30 days from the date of approval of the State of Wyoming's NPDES Permit Program the Regional Administrator will provide the Division with a list of those applicants in the State of Wyoming which have been determined by the Environmental Protection Agency to not require NPDES permits. The Regional Administrator will send any applications or information that he has in his possession relative to the facilities on this list to the Division. The Division will inform the Regional Administrator of any facilities on this list to which the State issues a NPDES permit.
 - d. The Regional Administrator will also transmit to the Division copies of any fact sheets, public notices, proposed permit conditions, and summary of rationale sheets, drafted by the Environmental Protection Agency for facilities applying for NPDES permits in the State of Wyoming.
2. TRANSMITTAL OF DATA FROM THE DIVISION TO THE REGIONAL ADMINISTRATOR.
 - a. The Division shall review all NPDES and Refuse Act applications and data transmitted by the Regional Administrator for completeness and sufficiency, and shall provide the Regional Administrator with a listing

of those applications which are considered to be incomplete or otherwise deficient for preparation of a permit. The Regional Administrator will provide the necessary information to complete the application, or will inform the Director, or his designee, that the information must be requested from the applicant.

- b. After final approval of the Wyoming NPDES Permit Program, the Division will assume initial responsibility for determining that applications submitted to the Division after that date are complete. When the Division determines that the NPDES forms received from the applicant are complete, two copies of the forms, with a cover letter indicating that the forms are complete, will be promptly transmitted to the Regional Administrator, Attention: Permits Branch. If the Regional Administrator concurs with the Division, one copy will be used for processing into the National Data Bank and the other copy will be placed in the Region VIII NPDES Permit files. If the Regional Administrator does not concur that the application is complete, he shall, within 20 days, notify the Director, or his designee, by letter in which respects the application is deficient. The Director, or his designee, will send the Regional Administrator any necessary information to complete the application and, if the Regional Administrator so requests, shall not issue the NPDES permit until notice is received from the Regional Administrator that the information is sufficient.
- c. It shall be the responsibility of the Regional Administrator to provide a copy of all NPDES forms and data, whether received by the Environmental Protection Agency before final approval of the Wyoming NPDES Permit Program or provided by the Division pursuant to paragraph (b) of this section, to the National Data Bank.
- d. The Permits Branch, Enforcement Division, Region VIII, Environmental Protection Agency, will review all NPDES applications to identify any discharges less than 50,000 gallons per day which are not minor discharges.
- e. The Regional Administrator does not waive his rights to receive copies of all NPDES forms received by the Division. However, the Regional Administrator may, at his option, expressly waive any and all of his rights to receive NPDES portions of State permit forms with respect to any particular discharge or any class or type of discharge or with respect to discharges to particular navigable waters or parts thereof at any time in the future.

- f. The Division shall transmit, upon request by the Regional Administrator, copies of any notices submitted by publicly-owned treatment works to the Division prepared in accordance with 40 CFR 124.45(d) and (e) of the State Guidelines or equivalent State requirements.
- g. Upon acquisition by the Division of the capability to prepare data in a format suitable for direct entry into the Environmental Protection Agency water information system, all information and data transmitted under this section will be prepared for such direct entry prior to submittal to the Environmental Protection Agency.

3. PREPARATION OF PROPOSED PERMITS.

- a. Region VIII of the Environmental Protection Agency, through the Permits Branch, Enforcement Division, shall provide technical assistance to the Division in the interpretation of effluent guidelines and other Federal regulations; preparation and issuance of public notice, fact sheets and permits; and review of all proposed NPDES permits for compliance with Federal regulations.
- b. The Division will provide the Permits Branch, Enforcement Division, with an internal draft of proposed NPDES permits, fact sheets, and public notices. The Permits Branch will promptly review these internal drafts and comment, if necessary, within 10 days. The Director, or his designee, will consider these comments as the proposed permits, fact sheets, and public notices are finalized.
- c. For each permit prepared subject to this Agreement, the Division will specify maximum and average quantitative limitations for the level of pollutants in the authorized discharge in terms of weight, where applicable.
- d. For each permit prepared subject to this Agreement, the Division will require that the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.
- e. If the Director, or his designee, makes a tentative determination to deny a permit, he shall notify the applicant of such intent and provide a copy of the determination to the Regional Administrator.

4. TRANSMISSION TO REGIONAL ADMINISTRATOR OF PROPOSED NPDES PERMITS.

- a. The Regional Administrator will have 30 days from the time he receives the proposed NPDES permit from the Division, within which to object to, as provided for in Section 402(d)(2) of the Act, comment upon or make a recommendation with respect to the proposed NPDES permit. Upon request of the Regional Administrator, the Director, or his designee, will provide the Regional Administrator with additional time for review, provided that the total review period shall not exceed 90 days. The Regional Administrator shall notify the Division in writing within the time periods set forth above if the Environmental Protection Agency objects to or concurs with the issuance by the Division of the NPDES permit as proposed, failure to so notify the Director, or his designee, within the specified time period shall be considered as concurrence by the Regional Administrator.
- b. If a public notice, required by 40 CFR 124.32, is issued, the Division will transmit one copy of the NPDES public notice, fact sheet (if one is required), and proposed NPDES permit to the Regional Administrator, Attention: Permits Branch. The information transmitted with the proposed permit will include any and all terms, conditions, requirements, or documents which are part of the proposed permit.
- c. The Division will transmit to the Regional Administrator, Attention: Permits Branch, copies of all written comments received on any public notices for a proposed NPDES permit from any source.
- d. If a proposed NPDES permit issued with a public notice is modified as a result of comments received by the Division during the 30-day comment period or as a result of a public hearing, the Division will transmit a revised copy of the proposed NPDES permit to the Regional Administrator, Attention: Permits Branch, and shall specify the reasons for the modification.

The Regional Administrator shall be provided 30 days from the time he receives the proposed NPDES permit, as revised, within which to object, comment upon or make recommendations with respect to any such revision.

- e. The Director, or his designee, will consider all written comments by the Regional Administrator prior to final issuance of an NPDES permit. Modifications recommended

by the Regional Administrator, including requests for additional monitoring, may be incorporated into final NPDES permits by the Division. No NPDES permits to which the Regional Administrator objects will be issued by the Director, or his designee.

- f. The Regional Administrator does not waive his right, in any respect, to review all NPDES permits proposed to be issued to any point source dischargers in the State of Wyoming. However, the Regional Administrator may, at his option, expressly waive any or all of his rights to receive, review, object to, or comment upon proposed NPDES permits for classes, types, or sizes of dischargers within any category of point sources.

5. TRANSMISSION TO REGIONAL ADMINISTRATOR OF ISSUED NPDES PERMITS.

The Division will transmit to the Regional Administrator, Attention: Permits Branch, a copy of every issued NPDES permit together with any and all terms, conditions, and requirements of the NPDES permit.

6. MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS OF NPDES PERMITS.

When the Director, or his designee, finds it necessary or advisable to modify, suspend, or revoke a NPDES permit in whole or in part for cause or for any other reason, the Regional Administrator will have up to 30 days to review and comment on the proposed change. No modification, suspension, or revocation of a NPDES permit to which the Regional Administrator objects will be made.

7. MONITORING, RECORDING, AND REPORTING.

- a. The Division shall carry out monitoring activities to determine compliance with permits, to validate self-monitoring reports, and as necessary to provide support for enforcement actions against NPDES permit violators. Procedures for carrying out such activities shall be as mutually agreed upon by the Director, or his designee, and the Regional Administrator and in accordance with regulations as promulgated in 40 CFR 124 and 40 CFR 35. As a minimum, the Division will monitor each major discharge on a yearly basis and each minor discharge on a random basis.
- b. The Division will inspect the facilities of dischargers, including, where appropriate, effluent sampling and examination of monitoring records, reports, equipment, and methods. The compliance monitoring program shall be conducted in accordance with 40 CFR 35, Appendix A.

- c. All compliance monitoring samples shall be collected, preserved, analyzed, and validated by a quality control program in accordance with requirements of 40 CFR 35, Appendix A, and 40 CFR 136.
- d. The Regional Administrator may request in writing that additional parameters be monitored any time before an NPDES permit is issued.
- e. The Director, or his designee, will insure that the Regional Administrator, Attention: Permits Branch, receives two (2) copies of all NPDES reporting forms submitted to the Division. If the Regional Administrator, acting through the Permits Branch, determines that the NPDES reporting forms are complete, he shall keep one copy on file in the Permits Branch and will use the second copy for processing into the National Data Bank. If the Regional Administrator determines that the NPDES reporting forms submitted to the Division are not complete or are otherwise deficient, he shall specify to the Director, or his designee, in which respects the forms are deficient. Upon receipt of the specification of deficiencies, the Director, or his designee, shall require the permittee to supply such additional information as the Regional Administrator specifies. Upon acquisition by the Division of the capability, all data submitted under this section will be submitted in a form suitable for direct entry to the Environmental Protection Agency water information system.
- f. The Director, or his designee, shall evaluate data submitted by NPDES reporting forms and other forms supplying monitoring data for possible enforcement of remedial action.
- g. The Director, or his designee, will promptly notify the Regional Administrator of any actual or threatened endangerment to the health or welfare of persons resulting from the discharge of pollutants.

8. PUBLIC ACCESS TO INFORMATION.

If a request is made for confidential treatment of any process, method of manufacture or production or sales or marketing data, the Director shall make a tentative determination to approve or deny the request. If the information being so considered is contained in a NPDES form, the Director shall transmit a copy of such information to the Regional Administrator and request that the Regional Administrator concur in such a determination. Should the Regional Administrator not concur with the Director's determination he shall follow those steps set forth at 40 CFR 124.35(b). In no case shall the Director grant confidential protection to information that has been determined to not constitute trade secrets.

9. ENFORCEMENT.

- a. The Division shall be responsible for taking appropriate enforcement actions against persons in violation of NPDES permit conditions and will receive the assistance of the Enforcement Division, Region VIII, Environmental Protection Agency.
- b. The Regional Administrator will be advised of any enforcement action that is proposed to be taken by the Division, whether such enforcement action is administrative, criminal or civil in nature, or the nature thereof.
- c. The Division will advise the Regional Administrator of progress of enforcement proceedings and related matters. The Regional Administrator will receive a copy of any administrative or judicial order or directives related to compliance and will be advised of any violations of orders or directives and of proposed enforcement action to be undertaken. Upon request of the Director, or his designee, the Regional Administrator will participate in administrative enforcement hearings and provide staff assistance in any public hearing related to enforcement.
- d. Whenever the Regional Administrator, under authority in Section 309, finds a violation of a waste discharge permit, the Director, or his designee, and the person in alleged violation will be notified. The Director, or his designee, will promptly respond to such notification by advising the Regional Administrator of the action proposed with respect to such violation. The Regional Administrator generally intends to undertake direct enforcement action, under Section 309, only when the Division does not take appropriate enforcement action.

10. TRANSFER OF INFORMATION CONCERNING WELL DISPOSAL.

The Regional Administrator shall distribute to the Director, or his designee, any policies, technical information, or requirements specified by the Administrator in regulations issued pursuant to the Act concerning control of disposal of pollutants into wells.

11. PERFORMANCE AND GOALS.

The Director, or his designee, in the administration of the NPDES permit program on behalf of the State, shall use his best efforts to attain the performance goals which have been set pursuant to Section 106 of the Act, and to conform to the Environmental Protection Agency's permit

issuance strategy aimed at the issuance of permits to all substantial dischargers by December 31, 1974.

To this end, the Division will issue approximately seventeen (17) permits per month for the first six (6) months of calendar year 1975, or until all permits are issued, but will have permits issued for all point source discharges covered by the Act by June 30, 1975.

12. CHANGES IN STATE STATUTES, REGULATIONS, DIRECTIVES, FORMS, OR STANDARD TEST METHODS.
 - a. Prior to taking any action to propose any substantial amendment, rescission, or repeal of any statute, regulation, directive, or form which has been submitted to the Regional Administrator in connection with approval of the State's NPDES program, and prior to the adoption of any new form not so submitted, the Director, or his designee, shall notify the Regional Administrator and shall upon request, transmit the text of any such change or such new form to the Regional Administrator. The Regional Administrator shall have 20 days in which to assess such proposed change or such proposed new form as to its effect upon the State's qualification to conduct the NPDES program and to notify the State whether or not the proposed change or use of proposed new form would disqualify the State from participation in the NPDES.
 - b. If an amendment, rescission, or repeal of any statute, regulation, directive, or form described in paragraph (a) above shall occur for any reason, including action by the Wyoming Legislature or a court, the Director, or his designee, shall, within ten (10) days of such event, notify the Regional Administrator and shall upon request transmit a copy of the text of such revision to the Regional Administrator.
 - d. In order to facilitate the provisions of paragraph (a) and (b) of this section, the Director, or his designee, shall identify each form used in the Wyoming NPDES permit program by a series number and the date of the latest version or revision of such form.

13. FURTHER ASSURANCES.

The Director, or his designee, shall develop and promote such legislation, and regulations and take all further actions which may be needed in order to preserve and maintain any

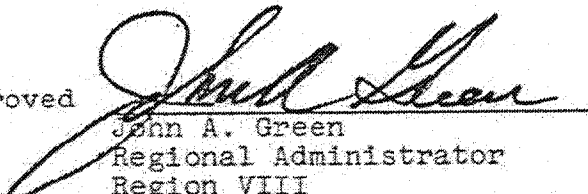
authorities, programs, or commitments described in this Agreement or contained elsewhere in the State's description of its NPDES program submitted to the Administrator.

14. EFFECT, RESCISSION, AND MODIFICATION.

This Agreement shall take effect upon program approval by the Administrator pursuant to Section 402(b) of the Federal Act and shall remain in effect for the duration of such approved program or until this Agreement is rescinded by mutual agreement of the parties. This Agreement may be modified from time to time as the parties may agree in order to simplify the procedures and refine the methods of administration and enforcement of the NPDES Permit Program.

IN WITNESS WHEREOF, the parties have executed this Agreement.

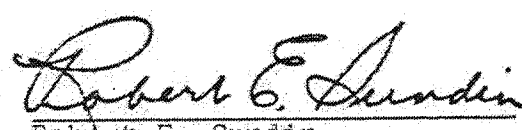
Approved


John A. Green
Regional Administrator
Region VIII
U.S. Environmental Protection Agency

Date

Oct 31, 1974

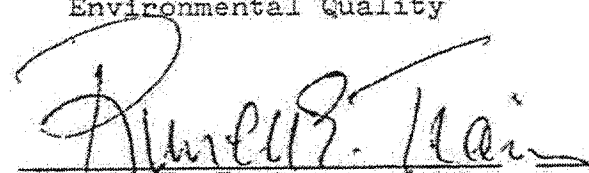
Approved


Robert E. Sundin
Director
Wyoming Department of
Environmental Quality

Date

Nov. 1, 1974

Approved


Russell E. Train
Administrator
U.S. Environmental Protection Agency

Date

JAN 30 1975



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 30 1975

THE ADMINISTRATOR

Dear Governor Herschler:

With great pleasure I am today approving the request made by your predecessor, Governor Hathaway, dated November 1, 1974, to conduct a State permit program pursuant to the provisions of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (the Act).

Pursuant to Section 402(c) of the Act, I am suspending as of this date, the issuance of permits by the Environmental Protection Agency under subsection (2) of Section 402 of the Act as to all discharges in the State of Wyoming except as follows: (1) the EPA will continue to process applications from and issue permits to agencies and instrumentalities of the Federal Government and to Indian tribes and authorized Indian tribal organizations; and (2) because they are the subject of the adjudicatory hearings before this Agency, the following applications and/or permits: (a) Application Number WY-2SB-OXT-2-000760, received from AMAX Incorporated for its Belle-Ayr Mine in Campbell County, Wyoming; (b) Permit Number WY-0003174, issued to the United States Steel Corporation's Atlantic City Mine near Lander, Wyoming; (c) Permits numbered WY-0002241 and WY-0002356, issued to Texaco, Incorporated for its Donkey Creek Oil Field, in Crook County, Wyoming; and (e) Permit Number WY-0002347, issued to Texaco, Incorporated for its Black Mountain Oil Field located in Hot Springs County, Wyoming. These applications and permits will continue to be processed by the EPA. I understand that the Department of Environmental Quality agrees that the EPA issuance and modification of these permits is desirable in order to avoid delay, confusion, and duplication of efforts resulting from Wyoming's having to repeat processing and appeal procedures for these permits.

The program you conduct pursuant to this authority must at all times be in accordance with Section 402 of the Act, all guidelines promulgated pursuant to Section 304(h)(2) of the Act, and the Memorandum of Agreement between the Regional Administrator of Region VIII and the Director of the Wyoming Department of Environmental Quality, which I have also approved today. Although I

find that Wyoming has the authorities required by Section 402(b) of the Act and the Section 304(h)(2) guidelines, I understand that Wyoming's permit program statutes would clarify your authority in several instances. These changes, which I support and encourage you to make, have apparently been discussed and agreed to by members of the staff of EPA's Region VIII and your Department of Environmental Sciences.

I strongly support Wyoming's commitment, as set forth in paragraph 11 of the Memorandum of Agreement, to issue NPDES permits to all dischargers in the State of Wyoming no later than June 30, 1975. Issuance of these permits will ensure that the intent of Congress is carried out and will put all polluters on a specific cleanup schedule.

Wyoming is the second State in Region VIII to receive approval of a permit program under this comprehensive water pollution control law. This is an excellent example of Wyoming's emergence as a leader in the area of environmental protection and is an achievement of which you should be justly proud.

We look forward to working with you and the Wyoming Department of Environmental Quality staff to continue the progress made in the State toward clean water in Wyoming's lakes, creeks, trout streams and rivers.

Sincerely yours,

Russell E. Train

Honorable Ed Herschler
Governor of Wyoming
Cheyenne, Wyoming 82001

Enclosure

cc: Mr. Robert E. Sundin, Director
Department of Environmental Quality
State Office Building
Cheyenne, Wyoming 82001

Prepared by: RAE Emmett/dwk/EG-338
& Region VIII/1-29-75

bcc: AX (2)

OEGC Chron & Reading Files

EG-338 Reading/Brian Molloy

Rick Johnson, EG-335

Robert Emmett, EG-338

John Bell, EG-338

Regional Administrator, Region VIII

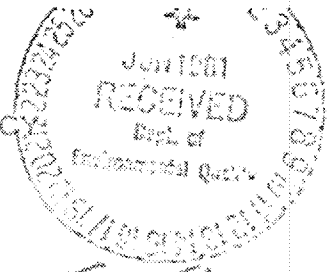
Regional Counsel, Region VIII

Regional Enforcement Director, Region VIII



AUG 7 1981

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



JAN 24 1981



DIVISION OF ENFORCEMENT

FILE
WY NPDES
PERMIT

Honorable Ed Herschler
Governor of Wyoming
Cheyenne, Wyoming 82001

Dear Governor:

On January 30, 1975, Wyoming received authority to administer the National Pollutant Discharge Elimination System (NPDES) permit program within its borders. EPA's approval letter indicated that we would retain authority to issue permits for Federal facilities and Indian-controlled discharges within the State. The reservation of authority over Federal facilities was necessary because the Federal Water Pollution Control Act (FWPCA) precluded State regulation of these facilities.

The 1977 Amendments to the FWPCA specifically authorize the States to administer the NPDES permit program for Federal facilities. Accordingly, I have today approved the State of Wyoming's request to assume this responsibility. I have also approved a revision to the Memorandum of Agreement between EPA and the State reflecting this transfer (copy enclosed). This approval overrides any contrary language in EPA's original approval of the State's NPDES program.

We are glad to transfer the administration of the NPDES permit program for Federal facilities to the State of Wyoming. Region VIII will be working with the Wyoming Department of Environmental Quality to facilitate this transfer in a timely manner.

Sincerely yours,

Richard D. Wilson
Acting Assistant Administrator
for Enforcement

Enclosure

cc: Wyoming Department of
Environmental Quality

7-2181.00

ENVIRONMENTAL PROTECTION AGENCY

APPROVAL OF WYOMING AND MONTANA'S NPDES
PROGRAM TO REGULATE FEDERAL FACILITIES

AGENCY: Environmental Protection Agency

ACTION: Notice of approval of the State of Wyoming and Montana's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) program with respect to Federal facilities.

SUMMARY: On May 18 and June 22 1981, the Environmental Protection Agency (EPA) approved the State of Wyoming and Montana's request to include regulation of Federal facilities under their State water pollution permit program responsibility. Previously the States had been approved to participate in the NPDES program.

FOR FURTHER INFORMATION CONTACT:

Rashida Mims, Permits Division (EN-336),
U.S. Environmental Protection Agency,
401 M Street S.W., Washington, D.C. 20460
202-755-0750

SUPPLEMENTARY INFORMATION:

In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendment, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA in approving State programs under section 402(b) reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's Federal Register notice is to announce the approval of the State of Wyoming and Montana's request to assume NPDES authority over Federal facilities.

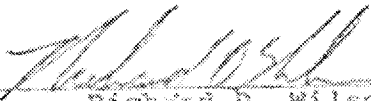
Also included in this notice is a list of approved NPDES States indicating which have been granted Federal facilities and pretreatment authority.

	Approved State NPDES Permit Program	Approved to regulate Federal facilities	Approved State Pretreatment Program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		
Delaware	04/01/74		
Georgia	06/28/74	12/08/80	03/12/81
Hawaii	11/28/74	06/01/79	
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	
Kansas	06/28/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74		
Missouri	10/30/74	06/26/79	
Montana	06/10/74	6/23/81	
Nebraska	06/12/74	11/02/79	
Nevada	09/19/75	08/31/78	
New York	10/28/75	06/13/80	
North Carolina	10/19/75		
North Dakota	06/13/75		
Ohio	03/11/74		

	Approved State NPDES Permit Program	Approved to regulate Federal facilities	Approved State Pretreatment Progra
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75	09/26/80	
Tennessee	12/28/77		
Vermont	03/11/74		
Virgin Islands	06/30/76		
Virginia	03/31/75		
Washington	11/14/73		
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/18/81	

4/22/81

Date


 Richard D. Wilson
 Acting Assistant Administrator
 for Enforcement

AMENDMENT
TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT
BETWEEN
THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

The memorandum of agreement between the United States Environmental Protection Agency, Region VIII (hereinafter EPA) and the Wyoming Department of Environmental Quality (hereinafter DEQ) is hereby amended to include DEQ and EPA responsibilities for the development, issuance, and enforcement of National Pollutant Discharge Elimination System (hereinafter NPDES) general permits as follows:

The DEQ has the responsibility for developing and issuing NPDES general permits. After identifying dischargers appropriately regulated by a general permit, the DEQ will collect sufficient effluent data to develop effluent limitations and prepare the draft permit.

Each draft general permit will be accompanied by a statement of basis setting forth the principal facts and methodologies considered during permit development and will be transmitted to the following EPA offices:

Water Management Division Director
U.S. EPA, Region VIII
Denver Place, Suite 500
999 18th St.
Denver, CO 80202-2405

and

Director, Office Water Enforcement and Permits
U.S. EPA (EN-335)
401 M St. SW
Washington, DC 80460

EPA will have up to ninety (90) days to review draft general permits and provide comments, recommendations, and objections to the DEQ (General permits for discharges from separate storm sewers need not be sent to EPA headquarters for review). In the event that EPA does object to a general permit it will provide, in writing, the reasons for its objection and the action necessary to eliminate the objection. The state has the right to a public hearing on the objection in accordance with 40 CFR 123.44. Upon receipt of EPA's objection, the state may request a public hearing to resolve the issues. If EPA's concerns are not satisfied and the state has not sought a hearing within ninety (90) days of the

objection, exclusive authority to issue the general permit passes to EPA (See 40 CFR Subsection 123.44).

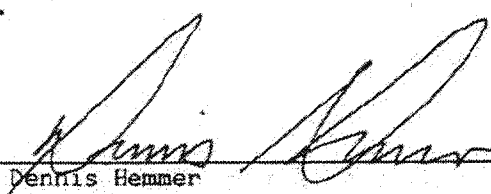
If EPA makes no comment on a draft general permit within ninety (90) days, it will be public noticed in accordance with Wyoming Water Quality Rules and Regulations Chapter II and 40 CFR subsection 124.10. The public notice shall be printed as a legal notice in a newspaper with statewide circulation and provided to each person on the DEQ/NPDES Public Notice Mailing List. The DEQ will administer general permits in accordance with Wyoming Water Quality Rules and Regulations Chapter II and 40 CFR 122.28.

DEQ may require any person authorized by a general permit to apply for and obtain an individual NPDES permit. In addition, interested persons, including dischargers otherwise authorized by a general permit, may request that a facility be excluded from general permit coverage. Dischargers wishing exclusion must apply for an individual NPDES permit within ninety (90) days of publication of the general permit or within 180 days of when the discharge is to occur. The applicability of a general permit will automatically terminate upon the effective date of the individual permit. Finally, a discharger with an effective or continued individual NPDES permit may seek general permit coverage by requesting that its permit be revoked.

The DEQ also has the primary responsibility for conducting compliance monitoring activities and enforcing conditions and requirements of general permits.

All specific state commitments regarding the issuance and enforcement of general permits will be determined through the annual 106 workplan/SEA agreement process.

This amendment to the Memorandum of Agreement will be effective upon approval of the DEQ's general permit program application by the administrator of EPA Region VIII.


Dennis Hemmer
Director
Wyoming Department of Environmental Quality

June 18, 1991
Date


James J. Scherer, Regional Administrator
U.S. EPA, Region VIII

9/24/91
Date

NPDES
ENFORCEMENT AGREEMENT
BETWEEN THE
U.S. ENVIRONMENTAL
PROTECTION AGENCY, REGION VIII
AND
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

PURPOSE

The purpose of this Agreement is to provide for routine coordination and consultation on State and EPA enforcement activities. This Agreement serves to clearly define the State/Federal partnership in enforcement, as described in the following documents.

1. Guidance for the FY 1988 State/EPA Enforcement Agreements Process dated March 31, 1987.
2. Revised Policy Framework for State/EPA Enforcement Agreements dated August 25, 1986.
3. The FY 1987 National Guidance for Oversight of NPDES Programs dated April 18, 1986.

SCOPE

This Agreement establishes the routine consultation and coordination of EPA/State enforcement activities and defines the basic oversight criteria for timely and appropriate enforcement actions.

BACKGROUND

In accordance with Federal NPDES regulations, the State reviews all appropriate compliance information for all permittees and prepares and submits to EPA the Quarterly Noncompliance Report (QNCR). This document serves as one of the basic mechanisms for coordinating and overseeing activities involving major permittees. As an additional oversight procedure, EPA Region VIII reviews selected compliance information (primarily inspection reports and DMR's for major facilities) and where appropriate, provides notice to the State where significant noncompliance (SNC) is found. State response to EPA issued notices is to be reported to EPA in writing within 30 days.

NONCOMPLIANCE CONSULTATION AND COORDINATION

EPA and State compliance staff are expected to consult and coordinate related enforcement activities on a day-to-day basis in a cooperative and professional manner, to insure the most efficient and effective State and Federal compliance actions.

Specifically, at a minimum, EPA and the State will review, each month, the status of permittees on the Quarterly Noncompliance Report (QNCR) and any outstanding Notices of Violation (NOV). If the list is of small size this discussion can take place over the telephone. If the list is lengthy, EPA and State management personnel will meet each quarter to discuss these dischargers. These meetings will be scheduled shortly after EPA's receipt and review of the State's QNCR.

Prior to the quarterly QNCR meeting and after preliminary discussions with the State, EPA will provide the State a specific agenda that will include a list of permittees to be discussed. The above discussions are expected to result in a conclusive, mutual understanding by EPA and the State of the formal actions that will be taken, within a given date by either the State or EPA, that will bring the permittee back into compliance. Such an understanding will be documented by EPA and included with the minutes of the meeting prepared by EPA.

The common goal of all parties is to cause permittees to promptly achieve and sustain compliance. There may be cases where it is impossible for EPA to agree with the State's actions to achieve this goal. In cases where agreement cannot be reached, both EPA and the State should avoid extended debate and should clearly define the actions each party intends to take. Discussion should then move to the remaining items on the agenda.

Where there are significant differences of opinion, EPA and the State should present the divergent viewpoints to their respective Division Directors immediately following the meeting. The Directors will ultimately decide the actions to be taken by their respective Divisions and, as appropriate, will confer with each other on the decisions.

PARTICIPANTS

The lead participants will be the Chief/Director, from the appropriate Sections in the EPA and State offices. It is essential that the same individuals participate in all meetings to insure continuity in commitments made at these meetings. Other individuals may be asked to participate based upon the specific issues to be discussed at the meeting. The exact participants will be determined when the agenda is finalized.

REPORTING

The State shall submit QNCR's to EPA by August 31, November 30, February 28, and May 31 of each year in accordance with 40 CFR 123.45. Also, the State shall submit a listing of all formal enforcement actions taken during the quarter by September 30, December 31, March 31, and June 30 of each year. These reports will cover the July-September, October-December, January-March, and April-June quarters, respectively. EPA interprets formal enforcement action to be defined as issued Notices of Violation with an Order which directs compliance, civil referrals to the State Attorney General, consent agreements filed in State court, and criminal referrals to the State Attorney General. The State shall maintain a log of all penalties assessed, as well as those collected.

CIVIL PENALTIES

A revised penalty policy will be prepared in concert with the Enforcement Management System by the State and submitted to EPA by September 30, 1988. The revised penalty policy shall consider the economic benefit of noncompliance, the seriousness of the violations, the number of violations, the environmental harm done, and the recalcitrance of the violator. The policy shall also recognize the State's authority to exercise flexibility and to adjust the penalty based on extenuating circumstances.

STATE CONSENT AGREEMENTS AND JUDICIAL REFERRALS

As the State proceeds with enforcement actions through the court system, it will consult with EPA concerning its intended course of action. The State, as appropriate, will provide preliminary drafts of proposed consent decrees and will allow EPA sufficient opportunity for comment.

EPA ENFORCEMENT ACTIONS

EPA shall consult and coordinate closely with the State on all direct enforcement actions it considers in the State. EPA will consider Federal enforcement action when any of the following situations exist: the State requests EPA direct enforcement, a violation of an EPA administrative order or consent decree occurs, a legal precedent under national environmental laws is present, when necessary to ensure the viability of a national initiative (example: NMP), unresolved interstate issues are present, the State fails to address all appropriate violations, the State fails to initiate timely and appropriate enforcement action, where the State has obtained a

grossly deficient penalty or sanction under the circumstances of the violations, or where a State is not operating a portion of the NPDES permit program in lieu of EPA (example: pretreatment, Federal facilities).

When EPA takes the lead on a case and decides that an administrative penalty will be sought, EPA will consult by telephone with the State concerning its intended course of action. EPA will also provide the State a preliminary draft of the proposed penalty order for comment, and a copy of the proposed penalty order which is sent to the discharger.

ATTORNEY GENERAL INVOLVEMENT

It will be the responsibility of the State Environmental Agency to keep the State Attorney General informed of planned EPA direct enforcement actions.

FEDERAL FACILITIES

Federal facilities will be treated under this agreement in the same manner as non-federal permittees. EPA will be notified of State enforcement actions on Federal Facilities. In the Spring of each year the Federal Facilities Coordinator will send to the State the A-106 listing of Federal facility pollution control projects for review and comment. The State will be asked to identify missing necessary water pollution control projects.

WIND RIVER INDIAN RESERVATION

EPA shall have primary enforcement responsibility for NPDES Permits issued to facilities located on the Wind River Indian Reservation. The State of Wyoming shall retain responsibility for reviewing the DMRs from such facilities and the State will monitor the discharges as resources allow.

If the State documents an NPDES violation, the State shall provide EPA with documentation of the violation. Within thirty (30) days of notification of the violation, the EPA shall take appropriate enforcement action and provide DEQ with a copy of the action, or if EPA decides not to take enforcement action, it shall provide the State with a written explanation of its reason(s) for not taking action.

PRETREATMENT

Until the delegation of the pretreatment program authority to the State occurs, EPA will remain primarily responsible for enforcement activities regarding pretreatment. The State is encouraged to conduct pretreatment inspections and to provide EPA

any information it finds regarding pretreatment violations. Once delegation is granted the State shall be responsible for pretreatment actions to the same degree and extent as any other NPDES violation.

OVERSIGHT CRITERIA

To implement the above cited EPA policy and guidance, the following enforcement response guidelines will be followed:

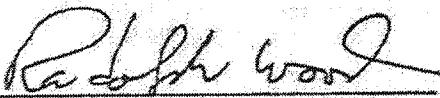
A. Timeliness


1. The State will evaluate instances of noncompliance by major permittees and P.L. 92-500 minor permittees within 30 days from the identification of a violation; determine the appropriate response, and document any action taken/not taken (including the technical reason).
2. In the case of major permittees, the State is expected to have already initiated an enforcement action to achieve compliance by the time the permittee appears on the QNCR.
3. Prior to a permittee appearing on the subsequent QNCR for the same violation, the permittee should either be in compliance or the State should have taken formal action to achieve final compliance.

B. Appropriateness

1. Formal enforcement action should be the response to significant noncompliance listed on a QNCR.
2. A judicial referral should be utilized where:
 - a. An administrative order has been violated.
 - b. The violation must be stopped immediately.
 - c. Long term compliance must be compelled.
 - d. A substantial economic benefit has been obtained from acts of noncompliance.
 - e. A deterrent is needed to prevent others from similarly violating the law.
3. A monetary penalty should be sought in each judicial referral or consent agreement.

4. The size of the penalty to be obtained shall be reviewed by EPA, in light of, and commensurate with, one calculated using EPA's Clean Water Act Civil Penalty Policy.


Randolph Wood, Director
Department of Environmental
Quality


James J. Scherer
Regional Administrator
U.S. Environmental Protection
Agency, Region VIII